

# **Exhibit 73**

Side - 1



**NOTICE OF PUBLICATION UNDER §12(a)**  
**MAILING DATE: Oct 31, 2007**  
**PUBLICATION DATE: Nov 20, 2007**

The mark identified below will be published in the Official Gazette on Nov 20, 2007. Any party who believes they will be damaged by registration of the mark may oppose its registration by filing an opposition to registration or a request to extend the time to oppose within thirty (30) days from the publication date on this notice. If no opposition is filed within the time specified by law, the USPTO may issue a Certificate of Registration.

To view the Official Gazette online or to order a paper copy, visit the USPTO website at <http://www.uspto.gov/web/trademarks/tmog/> any time within the five-week period after the date of publication. You may also order a printed version from the U.S. Government Printing Office (GPO) at <http://bookstore.gpo.gov> or 202-512-1800. To check the status of your application, go to <http://tarr.uspto.gov/>.

**SERIAL NUMBER:** 77176918  
**MARK:** M MIYANO  
**OWNER:** Miyano Machinery USA Inc.

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE  
COMMISSIONER FOR TRADEMARKS  
P.O. BOX 1451  
ALEXANDRIA, VA 22313-1451

FIRST-CLASS MAIL  
U.S POSTAGE  
PAID

GEORGE H. KOBAYASHI  
MASUDA, FUNAI, EIFERT & MITCHELL, LTD.  
203 N LASALLE ST STE 2500  
CHICAGO, IL 60601-1262

**Trademark Snap Shot Publication & Issue Review Stylesheet**

(Table presents the data on Publication &amp; Issue Review Complete)

**OVERVIEW**

SERIAL NUMBER	77176918	FILING DATE	05/09/2007
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	CHUO, EMILY M	L.O. ASSIGNED	101

**PUB INFORMATION**

RUN DATE	10/18/2007
PUB DATE	11/20/2007
STATUS	681-PUBLICATION/ISSUE REVIEW COMPLETE
STATUS DATE	10/17/2007
LITERAL MARK ELEMENT	M MIYANO

DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

**FILING BASIS**

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO

66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

**MARK DATA**

STANDARD CHARACTER MARK	NO
LITERAL MARK ELEMENT	M MIYANO
MARK DRAWING CODE	3-AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/LETTER(S)/NUMBER(S)
COLOR DRAWING FLAG	NO

**CURRENT OWNER INFORMATION**

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Miyano Machinery USA Inc.
ADDRESS	940 N. Central Avenue Wood Dale, IL 60191
ENTITY	03-CORPORATION
CITIZENSHIP	Illinois

**GOODS AND SERVICES**

INTERNATIONAL CLASS	037
DESCRIPTION TEXT	Repair and refurbishing services in connection with machines and machine tools, namely, turning centers, lathes, vertical machining centers and all parts therefor

**GOODS AND SERVICES CLASSIFICATION**

INTERNATIONAL CLASS	037	FIRST USE DATE	01/01/1970	FIRST USE IN COMMERCE DATE	01/01/1970	CLASS STATUS	6-ACTIVE
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**MISCELLANEOUS INFORMATION/STATEMENTS**

CHANGE IN REGISTRATION	NO
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COLORS CLAIMED STATEMENT	Color is not claimed as a feature of the mark.
DESCRIPTION OF MARK	The mark consists of the wording Miyano with double winged letter "M" superimposed on a triangle.
OWNER OF US REG NOS	1217317 1473925 1527809

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
10/17/2007	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	012
10/17/2007	ALIE	A	ASSIGNED TO LIE	011
09/17/2007	CNSA	O	APPROVED FOR PUB - PRINCIPAL REGISTER	010
09/13/2007	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	009
09/13/2007	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	008
09/13/2007	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	007
08/27/2007	GPRN	O	NOTIFICATION OF PRIORITY ACTION E-MAILED	006
08/27/2007	GPRA	F	PRIORITY ACTION E-MAILED	005
08/27/2007	CPRA	R	PRIORITY ACTION WRITTEN	004
08/22/2007	DOCK	D	ASSIGNED TO EXAMINER	003
05/16/2007	MDSC	O	NOTICE OF DESIGN SEARCH CODE MAILED	002
05/15/2007	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

### CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	George H. Kobayashi
CORRESPONDENCE ADDRESS	GEORGE H. KOBAYASHI MASUDA, FUNAI, EIFERT & MITCHELL, LTD. 203 N LASALLE ST STE 2500 CHICAGO, IL 60601-1262
DOMESTIC REPRESENTATIVE	NONE



**Trademark Snap Shot Publication Stylesheet**

(Table presents the data on Publication Approval)

**OVERVIEW**

SERIAL NUMBER	77176918	FILING DATE	05/09/2007
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	CHUO, EMILY M	L.O. ASSIGNED	101

**PUB INFORMATION**

RUN DATE	09/18/2007
PUB DATE	N/A
STATUS	680-APPROVED FOR PUBLICATON
STATUS DATE	09/17/2007
LITERAL MARK ELEMENT	M MIYANO

DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

**FILING BASIS**

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO

66A	NO	66A	NO				
NO BASIS	NO	NO BASIS	NO				
<b>MARK DATA</b>							
STANDARD CHARACTER MARK			NO				
LITERAL MARK ELEMENT			M MIYANO				
MARK DRAWING CODE			3-AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/LETTER(S)/NUMBER(S)				
COLOR DRAWING FLAG			NO				
<b>CURRENT OWNER INFORMATION</b>							
PARTY TYPE			10-ORIGINAL APPLICANT				
NAME			Miyano Machinery USA Inc.				
ADDRESS			940 N. Central Avenue Wood Dale, IL 60191				
ENTITY			03-CORPORATION				
CITIZENSHIP			Illinois				
<b>GOODS AND SERVICES</b>							
INTERNATIONAL CLASS			037				
DESCRIPTION TEXT			Repair and refurbishing services in connection with machines and machine tools, namely, turning centers, lathes, vertical machining centers and all parts therefor				
<b>GOODS AND SERVICES CLASSIFICATION</b>							
INTERNATIONAL CLASS	037	FIRST USE DATE	01/01/1970	FIRST USE IN COMMERCE DATE	01/01/1970	CLASS STATUS	6-ACTIVE
<b>MISCELLANEOUS INFORMATION/STATEMENTS</b>							
CHANGE IN REGISTRATION				NO			



COLORS CLAIMED STATEMENT	Color is not claimed as a feature of the mark.
DESCRIPTION OF MARK	The mark consists of the wording Miyano with double winged letter "M" superimposed on a triangle.
OWNER OF US REG NOS	1217317 1473925 1527809

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
09/17/2007	CNSA	O	APPROVED FOR PUB - PRINCIPAL REGISTER	010
09/13/2007	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	009
09/13/2007	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	008
09/13/2007	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	007
08/27/2007	GPRN	O	NOTIFICATION OF PRIORITY ACTION E-MAILED	006
08/27/2007	GPRA	F	PRIORITY ACTION E-MAILED	005
08/27/2007	CPRA	R	PRIORITY ACTION WRITTEN	004
08/22/2007	DOCK	D	ASSIGNED TO EXAMINER	003
05/16/2007	MDSC	O	NOTICE OF DESIGN SEARCH CODE MAILED	002
05/15/2007	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

### CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	George H. Kobayashi
CORRESPONDENCE ADDRESS	GEORGE H. KOBAYASHI MASUDA, FUNAI, EIFERT & MITCHELL, LTD. 203 N LASALLE ST STE 2500 CHICAGO, IL 60601-1262
DOMESTIC REPRESENTATIVE	NONE



**Trademark Snap Shot Amendment & Mail Processing Stylesheet**  
(Table presents the data on Amendment & Mail Processing Complete)

**OVERVIEW**

SERIAL NUMBER	77176918	FILING DATE	05/09/2007
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	CHUO, EMILY M	L.O. ASSIGNED	101

**PUB INFORMATION**

RUN DATE	09/14/2007
PUB DATE	N/A
STATUS	661-RESPONSE AFTER NON-FINAL-ACTION-ENTERED
STATUS DATE	09/13/2007
LITERAL MARK ELEMENT	M MIYANO

DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

**FILING BASIS**

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO

66A	NO	66A	NO				
NO BASIS	NO	NO BASIS	NO				
<b>MARK DATA</b>							
STANDARD CHARACTER MARK			NO				
LITERAL MARK ELEMENT			M MIYANO				
MARK DRAWING CODE			3-AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/LETTER(S)/NUMBER(S)				
COLOR DRAWING FLAG			NO				
<b>CURRENT OWNER INFORMATION</b>							
PARTY TYPE			10-ORIGINAL APPLICANT				
NAME			Miyano Machinery USA Inc.				
ADDRESS			940 N. Central Avenue Wood Dale, IL 60191				
ENTITY			03-CORPORATION				
CITIZENSHIP			Illinois				
<b>GOODS AND SERVICES</b>							
INTERNATIONAL CLASS			037				
DESCRIPTION TEXT			Repair and refurbishing services in connection with machines and machine tools, namely, turning centers, lathes, vertical machining centers and all parts therefor				
<b>GOODS AND SERVICES CLASSIFICATION</b>							
INTERNATIONAL CLASS	037	FIRST USE DATE	01/01/1970	FIRST USE IN COMMERCE DATE	01/01/1970	CLASS STATUS	6-ACTIVE
<b>MISCELLANEOUS INFORMATION/STATEMENTS</b>							
CHANGE IN REGISTRATION				NO			

DESCRIPTION OF MARK	The mark consists of The mark consists of the word Miyano with double winged letter "M" superimposed in a triangle..
OWNER OF US REG NOS	1217317 1473925 1527809

**PROSECUTION HISTORY**

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
09/13/2007	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	009
09/13/2007	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	008
09/13/2007	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	007
08/27/2007	GPRN	O	NOTIFICATION OF PRIORITY ACTION E-MAILED	006
08/27/2007	GPRA	F	PRIORITY ACTION E-MAILED	005
08/27/2007	CPRA	R	PRIORITY ACTION WRITTEN	004
08/22/2007	DOCK	D	ASSIGNED TO EXAMINER	003
05/16/2007	MDSC	O	NOTICE OF DESIGN SEARCH CODE MAILED	002
05/15/2007	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

**CURRENT CORRESPONDENCE INFORMATION**

ATTORNEY	George H. Kobayashi
CORRESPONDENCE ADDRESS	GEORGE H. KOBAYASHI MASUDA, FUNAI, EIFERT & MITCHELL, LTD. 203 N LASALLE ST STE 2500 CHICAGO, IL 60601-1262
DOMESTIC REPRESENTATIVE	NONE



## Response to Office Action

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	77176918
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 101
<b>MARK SECTION (no change)</b>	
<b>GOODS AND/OR SERVICES SECTION (current)</b>	
<b>INTERNATIONAL CLASS</b>	037
<b>DESCRIPTION</b>	
Repair and refurbishing services in connection with machines and machine tools, namely, turning centers, lathes, vertical machining centers and all parts therefor	
<b>FILING BASIS</b>	Section 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 01/01/1970
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 01/01/1970
<b>GOODS AND/OR SERVICES SECTION (proposed)</b>	
<b>INTERNATIONAL CLASS</b>	037
<b>DESCRIPTION</b>	
Repair and refurbishing services in connection with machines and machine tools, namely, turning centers, lathes, vertical machining centers and all parts therefor	
<b>FILING BASIS</b>	Section 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 01/01/1970
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 01/01/1970
<b>STATEMENT TYPE</b>	"The substitute specimen(s) was in use in commerce as of the filing date of the application."
<b>SPECIMEN FILE NAME(S)</b>	\\TICRS2\EXPORT14\771\769\77176918\xml1\ROA0002.JP G
<b>SPECIMEN DESCRIPTION</b>	Mark as displayed on repair personnel shirt.
<b>ADDITIONAL STATEMENTS SECTION</b>	
<b>PRIOR REGISTRATION(S)</b>	"Applicant claims ownership of U.S. Registration Number(s) 1217317, 1473925, 1527809."
<b>SIGNIFICANCE OF MARK</b>	"MIYANO appearing in the mark has no significance in the relevant trade or industry or as applied to the goods/services listed in the application, no geographical significance, nor any meaning in a foreign language."
<b>SIGNATURE SECTION</b>	
<b>DECLARATION SIGNATURE</b>	/George H. Kobayashi/
<b>SIGNATORY'S NAME</b>	George H. Kobayashi
<b>SIGNATORY'S POSITION</b>	Attorney at Law

Input Field	Entered
DATE SIGNED	09/13/2007
RESPONSE SIGNATURE	/George H. Kobayashi/
SIGNATORY'S NAME	George H. Kobayashi
SIGNATORY'S POSITION	Attorney at Law
DATE SIGNED	09/13/2007
AUTHORIZED SIGNATORY	YES
<b>FILING INFORMATION SECTION</b>	
SUBMIT DATE	Thu Sep 13 17:45:47 EDT 2007
TEAS STAMP	USPTO/ROA-206.165.85.15-2 0070913174547580518-77176 918-4009edcba40d72f19e09e f3f7e8aa3f1930-N/A-N/A-20 070913172652721877

PTO Form 1957 (Rev 9/2005)

OMB No. 0651-0050 (Exp. 04/2009)

## Response to Office Action

### To the Commissioner for Trademarks:

Application serial no. **77176918** has been amended as follows:

#### CLASSIFICATION AND LISTING OF GOODS/SERVICES

**Applicant proposes to amend the following class of goods/services in the application:**

**Current:** Class 037 for Repair and refurbishing services in connection with machines and machine tools, namely, turning centers, lathes, vertical machining centers and all parts therefor

Original Filing Basis:

**Filing Basis: Section 1(a), Use in Commerce:** The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 01/01/1970 and first used in commerce at least as early as 01/01/1970, and is now in use in such commerce.

**Proposed:** Class 037 for Repair and refurbishing services in connection with machines and machine tools, namely, turning centers, lathes, vertical machining centers and all parts therefor

**Filing Basis: Section 1(a), Use in Commerce:** The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 01/01/1970 and first used in commerce at least as early as 01/01/1970, and is now in use in such commerce.

Applicant hereby submits a new specimen for Class 037. The specimen(s) submitted consists of Mark as displayed on repair personnel shirt..

For an application based on 1(a), Use in Commerce, "The substitute specimen(s) was in use in commerce as of the filing date of the application."  
Specimen File1

#### ADDITIONAL STATEMENTS

##### Claim of Prior Registration(s)

"Applicant claims ownership of U.S. Registration Number(s) 1217317, 1473925, 1527809."

##### Significance of wording, letter(s), or numeral(s)

"MIYANO appearing in the mark has no significance in the relevant trade or industry or as applied to the goods/services listed in the application, no geographical significance, nor any meaning in a foreign language."

##### SIGNATURE(S)

##### Declaration Signature

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34 (a)(3)(i); and 2.34(a)(4)(ii). If the applicant is seeking registration under Section



1(a) of the Trademark Act, the mark was in use in commerce on or in connection with the goods or services listed in the application as of the application filing date. 37 C.F.R. Secs. 2.34(a)(1)(i). The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. §1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true; and all statements in the original application and this submission made on information and belief are believed to be true.

Signature: /George H. Kobayashi/ Date: 09/13/2007

Signatory's Name: George H. Kobayashi

Signatory's Position: Attorney at Law

**Response Signature**

Signature: /George H. Kobayashi/ Date: 09/13/2007

Signatory's Name: George H. Kobayashi

Signatory's Position: Attorney at Law

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

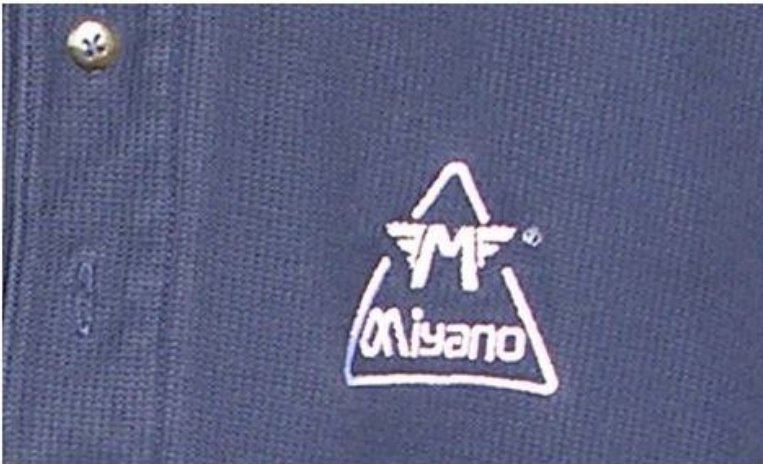
Serial Number: 77176918

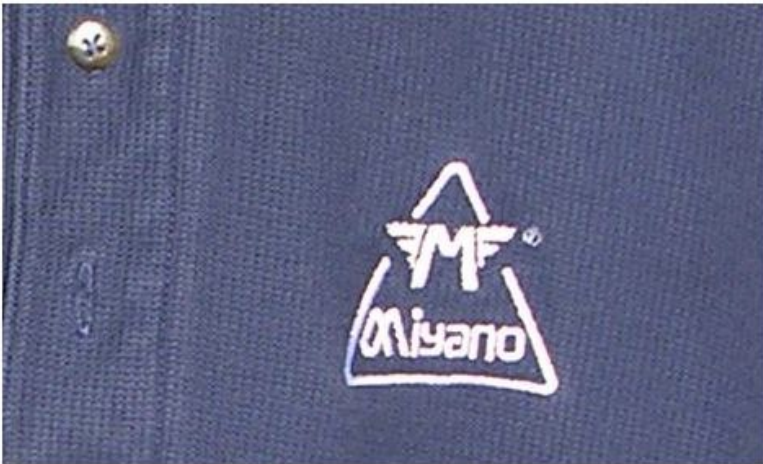
Internet Transmission Date: Thu Sep 13 17:45:47 EDT 2007

TEAS Stamp: USPTO/ROA-206.165.85.15-2007091317454758

0518-77176918-4009edcba40d72f19e09ef3f7e

8aa3f1930-N/A-N/A-20070913172652721877





**To:** Miyano Machinery USA Inc. ([gkobayashi@masudafunai.com](mailto:gkobayashi@masudafunai.com))  
**Subject:** TRADEMARK APPLICATION NO. 77176918 - M MIYANO - 2260-2010  
**Sent:** 8/27/2007 12:17:44 PM  
**Sent As:** ECOM101@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 77/176918

**MARK:** M MIYANO

**\*77176918\***

**CORRESPONDENT ADDRESS:**

GEORGE H. KOBAYASHI  
MASUDA, FUNAI, EIFERT & MITCHELL,  
LTD.  
203 N LASALLE ST STE 2500  
CHICAGO, IL 60601-1262

**RESPOND TO THIS ACTION:**

<http://www.uspto.gov/teas/eTEASpageD.htm>

**GENERAL TRADEMARK INFORMATION:**

<http://www.uspto.gov/main/trademarks.htm>

**APPLICANT:** Miyano Machinery USA Inc.

**CORRESPONDENT'S REFERENCE/DOCKET**

**NO:**

2260-2010

**CORRESPONDENT E-MAIL ADDRESS:**

[gkobayashi@masudafunai.com](mailto:gkobayashi@masudafunai.com)

**PRIORITY ACTION**

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

The application will be given priority as an amended application if a response to the requirements stated below is received within two months of the issue/mailing date.

**ISSUE/MAILING DATE:** 8/27/2007

**OFFICE SEARCH:** The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP section 704.02.

The following issues were discussed in communication with Mr. George Kobayashi on 27 August 2007.

### **Unclear Specimen**

The specimen is not acceptable because the digitized image of the photograph submitted does not clearly show the applied-for mark in use in commerce for the identified goods and/or services. An application based on Section 1(a) of the Trademark Act must include a specimen showing the applied-for mark in use in commerce for each class of goods and/or services. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051 and 1127; 37 C.F.R. §§2.34(a)(1)(iv) and 2.56; TMEP §904.

Therefore, applicant must satisfy one of the following:

- (1) Submit a true and unaltered copy of the originally submitted specimen, and a statement by the person who transmitted the application to the Office that the resubmitted specimen is a true copy of the specimen that was submitted with the application. TMEP §904.02.
- (2) Submit a substitute specimen showing use of the mark for each class of goods and/or services based on use in commerce, and the following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: **“The substitute specimen was in use in commerce at least as early as the filing date of the application.”** 37 C.F.R. §2.59(a); TMEP §904.09. If submitting a specimen requires an amendment to the dates of use, applicant must also verify the amended dates. 37 C.F.R. §2.71(c).

Examples of specimens for goods are tags, labels, instruction manuals, containers, photographs that show the mark on the goods or packaging, or displays associated with the goods at their point of sale. TMEP §§904.04 *et seq.* Examples of specimens for services are signs, photographs, brochures, website printouts or advertisements that show the mark used in the sale or advertising of the services. TMEP §§1301.04 *et seq.*

If applicant cannot satisfy one of the above requirements, applicant may amend the Section 1(a) filing basis (use in commerce) to Section 1(b) (intent to use basis), for which no specimen is required. However, should applicant amend the basis to Section 1(b), registration cannot be granted until applicant later amends the application back to use in commerce by filing an acceptable allegation of use with a proper specimen. 15 U.S.C. §1051(c); 37 C.F.R. §§2.76, 2.88; TMEP Chapter 1100.

In order to amend to Section 1(b), applicant must submit the following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: **“Applicant has had a bona fide intention to use the mark in commerce on or in connection with the goods or services listed in the application as of the filing date of the application.”** 15 U.S.C. §1051(b); 37 C.F.R. §§2.34(a)(2) and 2.35(b)(1); TMEP §806.03(c).

Pending a proper response, registration is refused because applicant has not provided evidence of use in commerce of the applied-for mark. 15 U.S.C. §§1051 and 1127; 37 C.F.R. §§2.34(a)(1)(iv) and 2.56; TMEP §904.

### **Properly Worded Declaration**

The following is a sample declaration under 37 C.F.R. §2.20:

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting there from, declares all statements made of his/her own knowledge are true; and all

statements made on information and belief are believed to be true.

---

(Signature)

---

(Print or Type Name and Position)

---

(Date)

**Claim of Ownership**

If applicant is the owner of U.S. Registration Nos. 1217317, 1473925 and 1527809, then applicant must submit a claim of ownership. 37 C.F.R. §2.36; TMEP §812. The following standard format is suggested:

Applicant is the owner of U.S. Registration Nos. 1217317, 1473925 and 1527809.

**Requirement for Additional Information**

Applicant must specify whether “MIYANO” has any significance in applicant’s trade or industry, any geographical significance, any meaning in a foreign language, or identifies any particular living individual. 37 C.F.R. §2.61(b).

If applicant has questions about its application or needs assistance in responding to this Office action, please telephone the assigned trademark examining attorney directly at the number below.

/Emily Chuo/

Trademark Examining Attorney

Law Office 101

U.S. Patent & Trademark Office

Phone: 571.272.1728

Emily.Chuo@uspto.gov

**RESPOND TO THIS ACTION:** If there are any questions about the Office action, please contact the assigned examining attorney. A response to this Office Action should be filed using the Office’s Response to Office action form available at <http://www.uspto.gov/teas/eTEASpageD.htm>. If notification of this Office action was received via e-mail, no response

using this form may be filed for 72 hours after receipt of the notification. **Do not attempt to respond by e-mail as the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

**STATUS CHECK:** Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

**To:** Miyano Machinery USA Inc. ([gakobayashi@masudafunai.com](mailto:gakobayashi@masudafunai.com))  
**Subject:** TRADEMARK APPLICATION NO. 77176918 - M MIYANO - 2260-2010  
**Sent:** 8/27/2007 12:17:45 PM  
**Sent As:** ECOM101@USPTO.GOV  
**Attachments:**

**IMPORTANT NOTICE**  
**USPTO OFFICE ACTION HAS ISSUED ON 8/27/2007 FOR**  
**APPLICATION SERIAL NO. 77176918**

Please follow the instructions below to continue the prosecution of your application:

**VIEW OFFICE ACTION:** Click on this link  
[http://portal.uspto.gov/external/portal/tow?DDA=Y&serial\\_number=77176918&doc\\_type=PAT&mail\\_date=20070827](http://portal.uspto.gov/external/portal/tow?DDA=Y&serial_number=77176918&doc_type=PAT&mail_date=20070827)  
(or copy and paste this URL into the address field of your browser), or visit <http://portal.uspto.gov/external/portal/tow>  
and enter the application serial number to access the Office action.

**PLEASE NOTE:** The Office action may not be immediately available but will be viewable within 24 hours of this notification.

**RESPONSE MAY BE REQUIRED:** You should carefully review the Office action to determine (1) if a response is required; (2) how to respond; and (3) the applicable response time period. Your response deadline will be calculated from **8/27/2007**.

**Do NOT hit "Reply" to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System response form at <http://www.uspto.gov/teas/eTEASpageD.htm>.**

**HELP:** For *technical* assistance in accessing the Office action, please e-mail [TDR@uspto.gov](mailto:TDR@uspto.gov). Please contact the assigned examining attorney with questions about the Office action.

**WARNING**

- 1. The USPTO will NOT send a separate e-mail with the Office action attached.**
- 2. Failure to file any required response by the applicable deadline will result in the ABANDONMENT of your application.**



\*\*\* User:echuo \*\*\*

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	18626	N/A	0	0	0:01	"M"[bi,ti]
02	8	3	5	4	0:01	*miyano*[bi,ti]
03	1559297	N/A	0	0	0:03	"037"[cc]
04	6514	N/A	0	0	0:01	1 and 3
05	105869	N/A	0	0	0:04	"037"[ic] or (a[ic] or b[ic] or "200"[ic])
06	666	N/A	0	0	0:01	4 and 5
07	391	0	2	351	0:02	6 not dead[ld]
08	4591	N/A	0	0	0:02	031701[dc]
09	12068	N/A	0	0	0:01	260502[dc]
10	59	32	2	27	0:01	8 and 9
11	142	N/A	0	0	0:01	1 and 9
12	65	0	1	65	0:03	11 not dead[ld]
13	14	5	9	6	0:34	*{"mn"}{"iey"}{"iey"}{v}n{v}*[bi,ti]

Session started 8/22/2007 6:33:12 AM

Session finished 8/22/2007 6:43:55 AM

Total search duration 0 minutes 55 seconds

Session duration 10 minutes 43 seconds

Default NEAR limit=1ADJ limit=1

Sent to TIGRS as Serial Number: 77176918

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**From:** TMDesignCodeComments  
**Sent:** Wednesday, May 16, 2007 00:08 AM  
**To:** gkobayashi@masudafunai.com  
**Subject:** Notice of Design Search Code for Serial Number: 77176918

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**ATTORNEY REFERENCE** 2260-2010  
**NUMBER:**

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The USPTO may assign design search codes, as appropriate, to new applications to assist in searching the USPTO database for conflicting marks. They have no legal significance and will not appear on the registration certificate.

DESIGN SEARCH CODES are numerical codes assigned to figurative, non-textual elements found in marks. For example, if your mark contains the design of a flower, design search code 05.05 would be assigned to your application. Design search codes are described on Internet Web page <http://www.uspto.gov/tmdb/dscm/index.html>.

You are not required to respond to this notice. However, if you would like to suggest additions or changes to the design search codes assigned to your mark, please send an email to [TMDesignCodeComments@USPTO.GOV](mailto:TMDesignCodeComments@USPTO.GOV) or call 1-800-786-9199 to speak to a Customer Service representative. No fee is necessary. (Please include the serial number of your application on ALL correspondence with the USPTO.) The USPTO will review your request and update the record if appropriate.

The USPTO will not send any further response to your e-mail. Check TESS in approximately two weeks to see if the requested changes have been entered. Requests deemed unnecessary or inappropriate will not be entered.

**Design search codes assigned to the referenced serial number are listed below.**

**DESIGN SEARCH CODES:**

03.17.01 - Wings, birds'  
26.05.02 - Plain single line triangles  
26.05.02 - Triangles, plain single line

**Trademark/Service Mark Application, Principal Register****Serial Number: 77176918****Filing Date: 05/09/2007****The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	77176918
<b>MARK INFORMATION</b>	
*MARK	\\TICRS2\EXPORT12\771\769 \77176918\xml1\APP0002.JP G
SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	M MIYANO
COLOR MARK	NO
DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of The mark consists of the word Miyano with double winged letter "M" superimposed in a triangle..
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	406 x 370
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Miyano Machinery USA Inc.
*STREET	940 N. Central Avenue
*CITY	Wood Dale
*STATE (Required for U.S. applicants)	Illinois
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	60191
PHONE	312-245-7500
FAX	312-245-7467
EMAIL ADDRESS	gkobayashi@masudafunai.com
<b>LEGAL ENTITY INFORMATION</b>	
*TYPE	CORPORATION
*STATE/COUNTRY OF INCORPORATION	Illinois
<b>GOODS AND/OR SERVICES SECTION</b>	

INTERNATIONAL CLASS	037
DESCRIPTION	Repair and refurbishing services in connection with machines and machine tools, namely, turning centers, lathes, vertical machining centers and all parts therefor.
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 01/01/1970
FIRST USE IN COMMERCE DATE	At least as early as 01/01/1970
SPECIMEN FILE NAME(S)	\\TICRS2\EXPORT12\771\769\77176918\xml1\APP0003.JPG
SPECIMEN DESCRIPTION	Service and repair personnel wearing shirts with design mark.
<b>ATTORNEY INFORMATION</b>	
NAME	George H. Kobayashi
ATTORNEY DOCKET NUMBER	2260-2010
FIRM NAME	Masuda, Funai, Eifert & Mitchell, Ltd.
STREET	203 N. LaSalle Street
INTERNAL ADDRESS	Suite 2500
CITY	Chicago
STATE	Illinois
COUNTRY	United States
ZIP/POSTAL CODE	60601
PHONE	312-245-7500
FAX	312-245-7467
EMAIL ADDRESS	gkobayashi@masudafunai.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Sayaka Kawakami
<b>CORRESPONDENCE INFORMATION</b>	
NAME	George H. Kobayashi
FIRM NAME	Masuda, Funai, Eifert & Mitchell, Ltd.
STREET	203 N. LaSalle Street
INTERNAL ADDRESS	Suite 2500
CITY	Chicago
STATE	Illinois
COUNTRY	United States
ZIP/POSTAL CODE	60601

PHONE	312-245-7500
FAX	312-245-7467
EMAIL ADDRESS	gkobayashi@masudafunai.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>FEE INFORMATION</b>	
NUMBER OF CLASSES	1
FEE PER CLASS	325
TOTAL FEE DUE	325
<b>SIGNATURE INFORMATION</b>	
SIGNATURE	/George H. Kobayashi/
SIGNATORY'S NAME	George H. Kobayashi
SIGNATORY'S POSITION	Attorney at Law
DATE SIGNED	05/09/2007
<b>FILING INFORMATION SECTION</b>	
SUBMIT DATE	Wed May 09 18:05:57 EDT 2007
TEAS STAMP	USPTO/BAS-206.165.85.15-2 0070509180557961701-77176 918-3708a1ddb77b266e6e535 941cc583e5d-CC-788-200705 09172659674129

PTO Form 1478 (Rev 9/2006)

OMB No. 0651-0009 (Exp 09/30/2008)

**Trademark/Service Mark Application, Principal Register****Serial Number: 77176918****Filing Date: 05/09/2007****To the Commissioner for Trademarks:****MARK:** M MIYANO (stylized and/or with design, see mark)

The literal element of the mark consists of M MIYANO. The applicant is not claiming color as a feature of the mark. The mark consists of The mark consists of the word Miyano with double winged letter "M" superimposed in a triangle..

The applicant, Miyano Machinery USA Inc., a corporation of Illinois, having an address of 940 N. Central Avenue, Wood Dale, Illinois, United States, 60191, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

International Class 037: Repair and refurbishing services in connection with machines and machine tools, namely, turning centers, lathes, vertical machining centers and all parts therefor.

Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, or the applicant's predecessor in interest used the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended.

In International Class 037, the mark was first used at least as early as 01/01/1970, and first used in commerce at least as early as 01/01/1970, and is now in use in such commerce. The applicant is submitting or will submit one specimen for *each class* showing the mark as used in commerce on or

in connection with any item in the class of listed goods and/or services, consisting of a(n) Service and repair personnel wearing shirts with design mark..

**Specimen File1**

The applicant hereby appoints George H. Kobayashi and Sayaka Kawakami of Masuda, Funai, Eifert & Mitchell, Ltd., Suite 2500, 203 N. LaSalle Street, Chicago, Illinois, United States, 60601 to submit this application on behalf of the applicant. The attorney docket/reference number is 2260-2010.

Correspondence Information: George H. Kobayashi  
Suite 2500  
203 N. LaSalle Street  
Chicago, Illinois 60601  
312-245-7500(phone)  
312-245-7467(fax)  
gkobayashi@masudafunai.com (authorized)

A fee payment in the amount of \$325 will be submitted with the application, representing payment for 1 class(es).

**Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /George H. Kobayashi/ Date Signed: 05/09/2007

Signatory's Name: George H. Kobayashi

Signatory's Position: Attorney at Law

RAM Sale Number: 788

RAM Accounting Date: 05/10/2007

Serial Number: 77176918

Internet Transmission Date: Wed May 09 18:05:57 EDT 2007

TEAS Stamp: USPTO/BAS-206.165.85.15-2007050918055796

1701-77176918-3708a1ddb77b266e6e535941cc

583e5d-CC-788-20070509172659674129









